

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re: LeClairRyan PLLC,¹
Debtor

LYNN L. TAVENNER, TRUSTEE,
Plaintiff

v.

HMR Funding, Inc.,
Defendant

Case No.

19-34574-KRH

Chapter

7

Adv. Proc. No. 20-03052-KRH

**MOTION FOR ENTRY OF DEFAULT JUDGMENT PURSUANT TO FEDERAL RULE
OF BANKRUPTCY PROCEDURE 7055, FEDERAL RULE OF CIVIL PROCEDURE 55,
AND LOCAL RULE OF BANKRUPTCY PROCEDURE 7055-1**

Lynn L. Tavenner, Chapter 7 trustee, (the “**Trustee**”) and not individually but solely in her capacity as the Chapter 7 trustee of the bankruptcy estate (the “**Estate**”) of LeClairRyan PLLC (“**LeClairRyan**” and/or the “**Debtor**”), by and through counsel, hereby moves, pursuant to Federal Rule of Bankruptcy Procedure 7055, Federal Rule of Civil Procedure 55 (“**Rule 55**”), and Local Rule of Bankruptcy Procedure 7055-1 for a default judgment against the above-captioned defendant (the “**Defendant**”) and in favor of the Trustee (the “**Motion**”). In support of this Motion, the Trustee states as follows:

1. On May 21, 2020, the Trustee filed a complaint (the “**Complaint**”) against the Defendant seeking: (i) judgment against the Defendant in an amount not less than \$250,063.02

¹ The principal address of the Debtor as of the Petition Date was 4405 Cox Road, Glen Allen, Virginia 23060, and the last four digits of the Debtor’s federal tax identification number are 2451.

(the “**Obligation**”) plus attorneys’ fees, costs and interests (the “**Judgment**”) and (ii) to compel Defendant to turnover to the Trustee for the benefit of the Estate all amounts included in the Judgment.

2. The Clerk issued a summons dated June 18, 2020 (the “**Summons**”). ECF No. 5.

3. The Defendant was properly served with a copy of the Summons and the Complaint by first-class U.S. mail on June 18, 2020. A Certificate of Service certifying the date and manner of service was filed with the Court on July 16, 2020. ECF No. 6.

4. Accordingly, Defendant had until July 18, 2020, or 30 days from the date of personal service of the Summons, to respond to the Complaint, pursuant to the Court’s *Order Approving Procedures and Permitting Trustee to Prosecute and Compromise AR Actions (the “Procedures Order”)*, ECF No. 386, entered February 27, 2020, in the above-captioned bankruptcy case.

5. Defendant did not respond to the Complaint on or before July 18, 2020. Defendant still has failed to file an answer, motion, or other responsive pleading. This failure to plead or otherwise defend within the 30-day time limit of Federal Rule of Bankruptcy Procedure 7012(a) constitutes a default pursuant to Rule 55(a).

6. The Trustee is seeking Judgment against the Defendant for a sum certain in the amount of the Obligation plus attorneys’ fees, costs, and interests associated with the Judgment.

7. Defendant has failed to appear in this proceeding within the meaning of Rule 55(b)(1). The Trustee is unable to determine the Defendant’s military status, pursuant to the Service Members Civil Relief Act of 2003, 50 U.S.C. Appendix §§ 501-596. The Defendant is not an infant. To the best of the Trustee’s knowledge, the Defendant is not incompetent.

8. On November 12, 2020 the Trustee filed the Request for Entry of Default by the Clerk Pursuant to Federal Rule of Bankruptcy Procedure 7055, Federal Rule of Civil Procedure 55, and Local Rule of Bankruptcy Procedure 7055-1 (the “**Request**”). Attached as Exhibit A to the Request was the Declaration of Paula S. Beran in support of the Request. The Clerk entered default on November 24, 2020. ECF No. 9.

9. While the Trustee does not believe that Defendant has appeared in this proceeding within the meaning of Rule 55(b)(1), and that Judgment by default may therefore be entered by the Court without further notice to the Defendant, in the interest of fairness but without conceding that it is necessary to do so, the Trustee is providing notice of this Motion to the Defendant and asks that judgment by default be entered by the Court.

10. Attached hereto as Exhibit A is the Declaration of Lynn L. Tavenner in support of the relief sought in this Motion.

PRAYER FOR RELIEF

WHEREFORE, the Trustee respectfully requests that the Court enter an Order in substantially the same form as **Exhibit 1** attached hereto (a) entering a Judgment against the Defendant in the amount of \$250,063.02, plus interest at the prevailing statutory rate from entry of judgment until paid; (b) compelling the Defendant to turnover to the Trustee for the benefit of the Estate all amounts included in the Judgment, and (c) granting whatever further relief this Court deems reasonable.

Respectfully submitted,

Dated: January 26, 2021
Richmond, VA

LYNN L. TAVENNER, CHAPTER 7 TRUSTEE

/s/ Paula S. Beran

Paula S. Beran, Esquire (Va. Bar No. 34679)

Tavener & Beran, PLC
20 North 8th Street, Second Floor
Richmond, Virginia 23219
Telephone: (804) 783-8300
Telecopy: (804) 783-0178

Counsel for Lynn Lewis Tavener, Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on or before January 28, 2021, a true and correct copy of the above and foregoing was served by either First Class Mail, postage pre-paid and/or by electronic delivery to all of the parties as listed below:

HMR Funding, LLC
c/o David M. Lay, Esq. r/a
Williams Mullen
200 South 10th Street
Richmond, VA 23219-4091

/s/ Paula S. Beran

Counsel

Exhibit A

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re: LeClairRyan PLLC,¹
Debtor

LYNN L. TAVENNER, TRUSTEE,
Plaintiff

v.

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Defendant

Case No.

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7

Adv. Proc. No. 20-03052-KRH

DECLARATION OF LYNN L. TAVENNER

I, LYNN L. TAVENNER, pursuant to 28 U.S.C. § 1746, hereby declare as follows under penalty of perjury to the best of my knowledge, information, and belief:

1. I am the Chapter 7 Trustee of the Estate of the above referenced Debtor.
2. I make this declaration (the “**Declaration**”) in support of the attached *Motion for Entry of Default Judgment Pursuant to Federal Rule of Bankruptcy Procedure 7055, Federal Rule of Civil Procedure 55, and Local Rule of Bankruptcy Procedure 7055-1* (the “**Motion**”).
3. Members of the Estate’s wind-down team and professionals employed in the case, at my request and under my direction and supervision, have analyzed the Debtor’s books and

¹ The principal address of the Debtor as of the Petition Date was 4405 Cox Road, Glen Allen, Virginia 23060, and the last four digits of the Debtor’s federal tax identification number are 2451.

Paula S. Beran, Esquire (VSB No. 34679)
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records and other relevant documents with respect to the claims asserted against the Defendant in the Complaint. I have reviewed those analyses.

4. Based on that review, I believe that the facts and circumstances set forth in the Request and Motion, including the amount claimed, are true and correct to the best of my knowledge, information, and belief.

5. On May 21, 2020, I, through my counsel, filed a complaint (the “**Complaint**”) against the Defendant seeking: (i) judgment against the Defendant in the sum certain amount of \$250,063.02 (the “**Obligation**”) plus attorneys’ fees, costs, and interests (the “**Judgment**”) and (ii) to compel Defendant to turnover to me for the benefit of the Estate the Obligation as well as other amounts included in the Judgment.

6. The Clerk issued a summons dated June 18, 2020 (the “**Summons**”). ECF No. 5.

7. The Defendant was further properly served with a copy of the Summons and the Complaint by first-class U.S. mail on June 18, 2020. A Certificate of Service certifying the date and manner of service was filed with the Court on July 16, 2020. ECF No. 6.

8. Defendant did not respond to the Complaint on or before July 18, 2020. Defendant still has failed to file an answer, motion, or other responsive pleading. This failure to plead or otherwise defend within the 30-day time limit of Federal Rule of Bankruptcy Procedure 7012(a) and the Procedures Order constitutes a default pursuant to Rule 55(a).

9. Defendant has failed to appear in this proceeding within the meaning of Rule 55(b)(1). I am unable to determine the Defendant’s military status, pursuant to the Service Members Civil Relief Act of 2003, 50 U.S.C. Appendix §§ 501-596. The Defendant is not an infant. To the best of my knowledge, the Defendant is not incompetent.

10. As of the date of this Declaration, the electronic PACER docket in the above-captioned adversary proceeding indicates that Defendant has not filed an answer, motion, or any other responsive pleading to the Complaint.

11. On November 12, 2020 I, through counsel, filed the Request for Entry of Default by the Clerk Pursuant to Federal Rule of Bankruptcy Procedure 7055, Federal Rule of Civil Procedure 55, and Local Rule of Bankruptcy Procedure 7055-1 (the “**Request**”). Attached as Exhibit A to the Request was the Declaration of Paula S. Beran in support of the Request. The Clerk entered default on November 24, 2020. ECF No. 9.

Respectfully Submitted on this 26th day of January 2021

/s/ Lynn L. Tavenner

Lynn L. Tavenner

Respectfully Submitted on this 26th day of
January, 2021

Exhibit 1

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
Richmond Division**

In re: LeClairRyan PLLC, ¹ Debtor	Case No. 19-34574-KRH
LYNN L. TAVENNER, TRUSTEE, Plaintiff	Chapter 7
v. HMR Funding, Inc., Defendant	Adv. Proc. No. 20-03052-KRH

ORDER OF JUDGMENT

This matter came before the Court upon the *Motion For Entry of Default Judgment Pursuant to Federal Rule of Bankruptcy Procedure 7055, Federal Rule of Civil Procedure 55, and Local Rule of Bankruptcy Procedure 7055-1* (the “**Motion**”)² filed by Lynn L. Tavenner, (the “**Trustee**”) of the bankruptcy case of LeClairRyan (the “**Debtor**”), by counsel; and it appearing to the Court that (i) the Summons and Complaint in this adversary proceeding were properly served upon the above-captioned defendant (the “**Defendant**”); (ii) the Defendant has failed to answer, file a motion, or otherwise respond to the Complaint; (iii) the time for Defendant to file an answer, motion, or otherwise respond to the Complaint has expired; (iv) the Defendant is in default; (v) the amount sought in the Complaint is a sum certain; (vi) default was entered against the Defendant by the Clerk; (vii) to the best of the Trustee’s knowledge, the Defendant is not in military service;

¹ The principal address of the Debtor as of the Petition Date was 4405 Cox Road, Glen Allen, Virginia 23060, and the last four digits of the Debtor’s federal tax identification number are 2451.

² Capitalized terms not defined in this Order shall have the meanings ascribed to them in the Motion

(viii) the Defendant is not an infant; and (ix) to the best of the Trustee's knowledge, the Defendant is not an incompetent; and it further appearing that the Defendant is indebted to the Estate in the amount of \$250,063.02, plus interest at the statutory rate from entry of this order until paid.

ACCORDINGLY, Judgment is hereby entered in favor of the Trustee in the amount of \$250,063.02 (the "**Judgment Amount**") plus interest at the statutory rate from entry of this order until paid.

FURTHERMORE, the Defendant is hereby ordered to turnover to the Trustee the Judgment Amount plus interest at the statutory rate from entry of this order until paid.

Dated:
Richmond, Virginia

UNITED STATES BANKRUPTCY JUDGE

WE ASK FOR THIS:

/s/ Paula S. Beran

Paula S. Beran, Esquire (Va. Bar No. 34679)
Tavener & Beran, PLC
20 North Eighth Street, Second Floor
Richmond, Virginia 23219
Telephone: (804) 783-8300
Telecopy: (804) 783-0178

Counsel for Lynn Lewis Tavener, Trustee

CERTIFICATION OF ENDORSEMENT UNDER LOCAL RULE 9022-1(C)

Pursuant to Local Bankruptcy Rule 9022-1(C), I hereby certify that the foregoing proposed order has been endorsed by or served upon all necessary parties.

/s/ Paula S. Beran

Paula S. Beran (34679)

Service List:

HMR Funding, LLC
c/o David M. Lay, Esq. r/a
Williams Mullen
200 South 10th Street
Richmond, VA 23219-4091